

AMENDED IN SENATE MARCH 7, 2001

AMENDED IN SENATE MARCH 1, 2001

CALIFORNIA LEGISLATURE—2001–02 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 43

Introduced by Senators Alpert, Battin, Morrow, and Peace
(Coauthors: Assembly Members Bates, Kehoe, La Suer, Vargas,
Wayne, Wyland, and Zettel)

February 9, 2001

An act to amend Section 332.1 of the Public Utilities Code, ~~relating to public utilities~~ and to amend Section 80134 of the Water Code, relating to electric power, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Alpert. San Diego Gas and Electric Company: rates: *Department of Water Resources: revenues.*

(1) The Public Utilities Act requires the Public Utilities Commission to establish a ceiling of \$.065 per kilowatthour on the energy component of electric bills for residential, small commercial, and lighting customers of the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000, as prescribed. The commission may extend the ceiling through December 2003, as specified. Existing law requires the commission to determine that portion of each existing electrical corporation's retail rate effective on January 5, 2001, that is equal to the difference between the generation related component of the retail rate and the sum of the costs of the utility's own generation, qualifying facility contracts, existing bilateral

contracts, and ancillary services, to be known as the California Procurement Adjustment. Existing law requires the commission to further determine the amount of the California Procurement Adjustment that is allocable to the power sold by the Department of Water Resources, which is payable by each electrical corporation to the department for deposit in the Department of Water Resources Electric Power Fund, and known as the Fixed Department of Water Resources Set-Aside.

This bill would require the commission to also establish a frozen rate of \$.065 per kilowatthour on the energy component of electric bills for all customers of the San Diego Gas and Electric Company not subject to the ceiling imposed by existing law, through December 31, 2002, retroactive to February 7, 2001. The bill would require the commission to adjust the California Procurement Adjustment and the Fixed Department of Water Resources Set-Aside for those customers, as prescribed. The bill would make a related statement about the construction of the bill. Since a violation of a rule or order of the commission is a crime, this bill would impose a state-mandated local program by creating a new crime.

(2) *Existing law requires the department to enter into contracts for the purchase of electric power; and authorizes the department to sell power to retail end use customers and, with specified exceptions, to local publicly owned electric utilities at not more than the department's acquisition costs, as specified. Existing law authorizes the department to issue revenue bonds not to exceed a certain amount, containing specified terms and conditions, upon authorization by written determination of the department and with the approval of the Director of Finance and the Treasurer, as specified. Existing law requires the department to establish and revise revenue requirements sufficient, together with any moneys on deposit in the fund, to provide amounts necessary for specified purposes relating to the provision of power and bond repayment, and to notify the commission of its revenue requirement.*

This bill would include among those revenue requirements to be established an amount necessary to reimburse the department for any undercollection of the department's acquisition costs, plus certain other costs, pursuant to the rate requirements imposed by the bill.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.



Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3)

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 332.1 of the Public Utilities Code is
2 amended to read:

3 332.1. (a) (1) It is the intent of the Legislature to enact Item
4 1 (revised) on the commission's August 21, 2000, agenda, entitled
5 "Opinion Modifying Decision (D.) D.00-06-034 and
6 D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas
7 and Electric Company," as modified below.

8 (2) It is also the intent of the Legislature that to the extent that
9 the Federal Energy Regulatory Commission orders refunds to
10 electrical corporations pursuant to their findings, the commission
11 shall ensure that any refunds are returned to customers.

12 (b) The commission shall establish a ceiling of six and
13 five-tenths cents (\$.065) per kilowatthour on the energy
14 component of electric bills for residential, small commercial, and
15 street lighting customers of the San Diego Gas and Electric
16 Company, through December 31, 2002, retroactive to June 1,
17 2000. If the commission finds it in the public interest, this ceiling
18 may be extended through December 2003 and may be adjusted as
19 provided in subdivision (d).

20 (c) The commission shall establish an accounting procedure to
21 track and recover reasonable and prudent costs of providing
22 electric energy to retail customers unrecovered through retail bills
23 due to the application of the ceiling provided for in subdivision (b).
24 The accounting procedure shall utilize revenues associated with
25 sales of energy from utility-owned or managed generation assets
26 to offset an undercollection, if undercollection occurs. The
27 accounting procedure shall be reviewed periodically by the
28 commission, but not less frequently than semiannually. The

1 commission may utilize an existing proceeding to perform the
2 review. The accounting procedure and review shall provide a
3 reasonable opportunity for San Diego Gas and Electric Company
4 to recover its reasonable and prudent costs of service over a
5 reasonable period of time.

6 (d) If the commission determines that it is in the public interest
7 to do so, the commission, after the date of the completion of the
8 proceeding described in subdivision (g), may adjust the ceiling
9 from the level specified in subdivision (b), and may adjust the
10 frozen rate from the levels specified in subdivision (f), consistent
11 with the Legislature's intent to provide substantial protections for
12 customers of the San Diego Gas and Electric Company and their
13 interest in just and reasonable rates and adequate service.

14 (e) For purposes of this section, "small commercial customer"
15 includes, but is not limited to, all San Diego Gas and Electric
16 Company accounts on Rate Schedule A of the San Diego Gas and
17 Electric Company, all accounts of customers who are "general
18 acute care hospitals," as defined in Section 1250 of the Health and
19 Safety Code, all San Diego Gas and Electric Company accounts
20 of customers who are public or private schools for pupils in
21 kindergarten or any of grades 1 to 12, inclusive, restaurants,
22 shopping centers, and all accounts on Rate Schedule AL-TOU
23 under 100 kilowatts.

24 (f) The commission shall establish an initial frozen rate of six
25 and five-tenths cents (\$.065) per kilowatthour on the energy
26 component of electric bills for all customers of the San Diego Gas
27 and Electric Company not subject to subdivision (b), for the time
28 period ending with the end of the rate freeze for the Pacific Gas and
29 Electric Company and the Southern California Edison Company
30 pursuant to Section 368, retroactive to February 7, 2001. The
31 commission shall consider the comparable energy components of
32 rates for comparable customer classes served by the Pacific Gas
33 and Electric Company and the Southern California Edison
34 Company and, if it determines it to be in the public interest, the
35 commission may adjust this frozen rate, and may do so, retroactive
36 to February 7, 2001. The commission shall adjust the California
37 Procurement Adjustment and the Fixed Department of Water
38 Resources Set-Aside determined pursuant to Section 360.5 for
39 customers subject to this subdivision to reflect a retail rate
40 consistent with the rate for the energy component of electric bills

as determined in this subdivision, in place of the retail rate in effect on January 5, 2001. This section shall be construed to modify the payment provisions, but may not be construed to modify the electric procurement obligations of the Department of Water Resources, pursuant to any contract or agreement in accordance with Division 27 (commencing with Section 80000) of the Water Code, and in effect as of February 7, 2001, between the Department of Water Resources and San Diego Gas and Electric Company.

(g) The commission shall institute a proceeding to examine the prudence and reasonableness of the San Diego Gas and Electric Company in the procurement of wholesale energy on behalf of its customers, for a period beginning at the latest on June 1, 2000. If the commission finds that San Diego Gas and Electric Company acted imprudently or unreasonably, the commission shall issue orders that it determines to be appropriate affecting the retail rates of San Diego Gas and Electric Company customers including, but not limited to, refunds.

SEC. 2. *Section 80134 of the Water Code is amended to read:*

80134. (a) The department shall, and in any obligation entered into pursuant to this division may covenant to, at least annually, and more frequently as required, establish and revise revenue requirements sufficient, together with any moneys on deposit in the fund, to provide all of the following:

(1) The amounts necessary to pay the principal of and premium, if any, and interest on all bonds as and when the same shall become due.

(2) The amounts necessary to pay for power purchased by it and to deliver it to purchasers, including the cost of electric power and transmission, scheduling, and other related expenses incurred by the department, or to make payments under any other contracts, agreements, or obligations entered into by it pursuant hereto, in the amounts and at the times the same shall become due.

(3) Reserves in such amount as may be determined by the department from time to time to be necessary or desirable.

(4) The pooled money investment rate on funds advanced for electric power purchases prior to the receipt of payment for those purchases by the purchasing entity.

(5) Repayment to the General Fund of appropriations made to the fund pursuant hereto or hereafter for purposes of this division,

1 appropriations made to the Department of Water Resources
2 Electric Power Fund, and General Fund moneys expended by the
3 department pursuant to the Governor's Emergency Proclamation
4 dated January 17, 2001.

5 (6) *The amounts necessary to reimburse the department for any*
6 *undercollection of the department's acquisition costs, plus other*
7 *costs as provided in Section 80200, pursuant to the rate*
8 *requirements imposed by Section 332.1 of the Public Utilities*
9 *Code.*

10 (7) The administrative costs of the department incurred in
11 administering this division.

12 (b) The department shall notify the commission of its revenue
13 requirement pursuant to Section 80110.

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 ~~SEC. 3.~~

24 SEC. 4. This act is an urgency statute necessary for the
25 immediate preservation of the public peace, health, or safety
26 within the meaning of Article IV of the Constitution and shall go
27 into immediate effect. The facts constituting the necessity are:

28 In order to mitigate the high energy costs for large consumers
29 such as schools and businesses, due to the energy situation of 2001,
30 it is necessary that this act take effect immediately.

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